

THE CHAIRMAN: State the privilege.

DELEGATE H. TAYLOR: In the balcony to the right of the Chair sits a former law associate of mine who is now an attorney in the Trust Department of Riggs Bank. Her name is not Baby Jane. It is Miss Linda Watkins, and I hope the Convention will give her its usual warm welcome.

*(Applause.)*

THE CHAIRMAN: The question now arises on the adoption of Amendment 13-B as a substitute for Amendment 13.

Are you ready for the question?

Delegate James.

DELEGATE JAMES: Mr. Chairman, I would like a point of clarification here. Now, this language as I understand it provides for the right of removal of civil cases in trial courts and the use of the word "shall".

Now, as I interpret this, it means that it is a constitutional command to either the General Assembly or the Court of Appeals to provide a right of removal in all cases.

Now, if there is a limitation to this interpretation, I think this should be clear. This says removal of civil cases.

Now, as I interpret that, that does not mean the right to pick and choose those civil cases, but it means the right to remove all cases. The Court of Appeals power is merely limited to the details of how this shall be exercised in all cases.

THE CHAIRMAN: I take it that that is what the language means.

Delegate Moser, do you differ from that?

DELEGATE MOSER: I did not follow the entire colloquy.

THE CHAIRMAN: Delegate James is suggesting or inquiring whether the effect of this provision is to require either the Court of Appeals or the General Assembly to provide for removal in all civil cases. This would include not merely those where there is a right of removal now, but in all civil cases, cases in equity for instance.

DELEGATE MOSER: I answered his previous inquiry. All civil cases, no, but all types of action, yes, if that is what he means. It is intended to include equity cases and all other types of action.

THE CHAIRMAN: His question is or his suggestion is that the language does not

permit either the General Assembly or the Court of Appeals in acting under this section to say that there shall not be a right of removal in any particular kind of civil case.

Do you concur?

DELEGATE MOSER: I am sorry, no, I do not mean that.

THE CHAIRMAN: The Chair suggests, then, that there should be some clarifying language because the language would appear to indicate that.

Delegate Moser.

DELEGATE MOSER: Then I would suggest that we have a luncheon recess and I will get together with Delegates James and Henderson on this if the Chair would want this because this is something which should then be carefully drafted.

THE CHAIRMAN: I had hoped to dispose of the matter before lunch, but I think it is more important that we get the language correct. I would hope that if we recess for lunch now that when we come back that we do not renew the entire debate that has taken place in the last hour or hour and a half.

For what purpose does Delegate Henderson rise?

DELEGATE HENDERSON: I want to state my interpretation of this language which may be contrary to what the Chair expressed if I am in order in doing so. It seems to me this would give to the Court or the legislature the right, for example, to continue the present practice of not allowing the removal in condemnation cases, for example, where it is necessary for the jury to have a view of the property. That is a whole class of cases which has never been subject to removal and it never has been.

I do not think the adoption of that amendment would change that rule or law. I take it that the rules could include conditions. It might say that it required good cause shown or the possibility of prejudice before it might allow removal and all such things as that.

It was my intention in voting for this, and my thought, that the General Assembly or the Court of Appeals would have full power to make classifications. While the right was mandated, it was not any particular right, but a right subject to such condition as to time or otherwise that might be imposed by rule.